

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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J&J SPORTS PRODUCTIONS, INC.,
as Broadcast Licensee of the May 5, 2007
DeLaHoya/Mayweather Program,

Plaintiff,

-against-

SANDRA CASTRILLON, Individually, and
as officer, director, shareholder and/or
principal of LA 43 CAFÉ BAR CORP.
d/b/a LA 43 CAFÉ BAR a/k/a LA 43
CAFÉ BAR CORP., and LA 43 CAFÉ BAR
CORP. d/b/a LA 43 CAFÉ BAR a/k/a/
LA 43 CAFÉ BAR CORP.,

Defendants.

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Appearances:

For the Plaintiff:

JULIE COHEN LONSTEIN, ESQ.
Lonstein Law Office, P.C.
1 Terrace Hill, Box 351
Ellenville, NY 12428

BLOCK, Senior District Judge:

On July 19, 2007, plaintiff J&J Sports Productions, Inc. ("J&J") filed suit against Sandra Castrillon ("Castrillon") and LA 43 Café Bar Corp. ("LA 43 Café"). J&J's complaint alleged that defendants violated the Federal Communications Act, 47 U.S.C. §§ 553, 605(a), and 605(e)(4), by exhibiting without authorization a televised boxing match to which J&J had the exclusive right of distribution. As a result of defendants' failure to answer or otherwise defend, *see* Docket Entry #5 (Clerk's Entry of Default), J&J's motion for a default judgment was granted on March 21, 2008, and the matter was referred to

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Magistrate Judge Viktor V. Pohorelsky for a determination of the relief to be awarded. *See* Docket Entry #6 (Memorandum and Order). On September 11, 2008, J&J voluntarily dismissed all causes of action it had asserted against Castrillon, leaving LA 43 Café as the sole defendant. *See* Docket Entry #10 (Notice of Voluntary Dismissal).

On September 12, 2008, Magistrate Judge Pohorelsky issued a Report and Recommendation (“R&R”), *see* Docket Entry #11, recommending that judgment be entered against LA 43 Café in the amount of \$23,886.50, consisting of: (1) \$22,500 in statutory damages, (2) \$936.50 in attorney’s fees, and (3) \$450 in costs. The R&R advised that “[a]ny objections . . . must be filed with the Clerk of the Court within 10 days of receipt of this report,” and that “[f]ailure to file objections within the specified time waives the right to appeal any judgment or order entered by the District Court on reliance on this Report and Recommendation.” R&R at 6 (citations omitted). On September 17, 2008, plaintiffs served a copy of the R&R on LA 43 Café. *See* Docket Entry #12 (Affidavit of Service). No objections were filed.

On November 19, 2008, J&J submitted notice to the Court that it had settled the action with LA 43 Café; J&J “specifically reserve[d] the right, in the event of any non-payment, to reopen and reinstate its claim[s] against [LA 43 Café].” *See* Docket Entry #13 (Notice of Settlement) at 1. Accordingly, the Court dismissed the case without prejudice. However, on February 13, 2009, J&J moved to reopen the case, indicating that LA 43 Café “ha[d] failed to comply with the settlement” Docket Entry #14 (Motion to Re-Open) at 2. The Court granted J&J’s motion, directed J&J to re-serve the R&R on LA 43 Café, and

granted another 10 days for the filing of objections to the R&R. *See* Unnumbered Docket Entry dated Feb. 17, 2009. On February 20, 2009, J&J re-served the R&R on LA 43 Café. *See* Docket Entry #15 (Certificate of Service). Once again, no objections were filed.

"[A] district court evaluating a magistrate judge's recommendation is permitted to adopt those portions of the recommendation to which no specific, written objection is made, as long as those sections are not clearly erroneous." *Greene v. WCI Holdings Corp.*, 956 F. Supp. 509, 513 (S.D.N.Y. 1997) (internal quotation marks and citations omitted). The Court finds no clear error (if any error) with the R&R; accordingly, the Court adopts its recommendations without *de novo* review.

SO ORDERED.

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s/ FB

FRÉDÉRIC BLOCK
Senior United States District Judge

Brooklyn, New York
April 13, 2008